



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

September 16, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Frontier Correctional Systems, Inc.
John B. Harrison, President
322 West 17th Street
Cheyenne, Wyoming 82001

Certified Water Specialists, LLC
c/o John Trefren
POB 2675
Cheyenne, WY 82003

Re: Complaint and Notice of Opportunity
for Hearing
Docket No. **SDWA-08-2004-0048**

Dear Messrs. Harrison and Trefren:

Enclosed is an Administrative Complaint and Notice of Opportunity for Hearing (Complaint) filed against Frontier Correctional Systems, Inc. and Certified Water Specialists, LLC (Respondents), under Section 1414 of the Safe Drinking Water Act (SDWA) 42, U.S.C. Section 300g-3. The U.S. Environmental Protection Agency (EPA) alleges in the Complaint that the Respondents failed to comply with an Administrative Order, Docket No. SDWA-08-2002-43 issued on September 25, 2002, under Section 1414(g) of the SDWA, 42 U.S.C. Section 300g-3(g). These violations are specifically set out in the Complaint.

By law, you have the right to request a hearing regarding the matters set forth in the Complaint. Please pay particular attention to those parts of the complaint entitled "Opportunity to Request a Hearing" and "Failure to File an Answer." If you do not respond to this Complaint within 30 days of receipt, a Default Judgment may be entered and the proposed civil penalty may be assessed without further proceedings. In your Answer you may request a hearing. You have the right to be represented by an attorney at any stage of these proceedings.

Whether or not you request a hearing, you may confer informally with EPA concerning the alleged violations or the amount of the proposed penalty. You may appear at the conference yourself and/or be represented by your counsel.



EPA encourages all parties against whom it files a Complaint proposing assessment of a penalty to pursue the possibilities of settlement through an informal conference. Any such settlement shall be finalized by the issuance of a Final Order by the Regional Judicial Officer, EPA Region 8. The issuance of a Consent Agreement shall constitute a waiver of your right to request a hearing on any matter to which you have stipulated therein.

A request for an informal conference does not extend the 30 day period during which you must submit a written Answer and a request for a hearing. The informal conference procedure may be pursued as an alternative to, and simultaneous with the adjudicatory hearing.

If you have any technical questions, please contact Olive Hofstader at (303) 312-6467. If you have legal questions or wish to explore the possibility of settlement in this matter, please contact Marc Weiner, Staff Attorney at (303) 312-6913.

We urge your prompt attention to this matter.

Sincerely,

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

cc: Larry Robinson, WYDEQ
Dr. Karl Musgrave, WYDOH



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
999 18TH STREET - SUITE 300
DENVER, CO 80202-2466
<http://www.epa.gov/region08>

September 16, 2004

Ref: 8ENF-W

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Laramie County Commissioners
c/o Jack Knudson, Chair
309 West 20th Street
Cheyenne, WY 82001

Re: Notice of Complaint and Notice of
Opportunity for Hearing Against
Frontier Correctional Systems and Certified
Water Specialists
Docket No. **SDWA-08-2004-0048**

Dear Mr. Knudson:

Pursuant to Section 1414(a)(2)(B) of the 1996 amendments to the Safe Drinking Water Act (SDWA), 42 U.S.C. § 300g-3(a)(2)(B), the Environmental Protection Agency (EPA) is required to notify an appropriate locally elected official of any action taken in a State that does not have primary enforcement authority for public water systems. The State of Wyoming does not have primary enforcement authority for public water systems under the SDWA.

EPA is issuing a Complaint and Notice of Opportunity for Hearing ("Complaint") under Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3) to Frontier Correctional Systems and Certified Water Specialists (Respondents) in Cheyenne, Wyoming for a proposed penalty of \$1500.00. The Respondents are in violation of Administrative Order (Docket No. SDWA-08-2002-43). Respondents have failed to monitor for total coliform bacteria, exceeded the total coliform maximum contaminant level, failed to provide public notice of violations and failed to report violations to EPA after issuance of the Order.

A copy of this Complaint is enclosed for your information. The Complaint does not require any response or action by the County Commission.

In the Matter of Frontier Correctional Systems, Inc. and Certified Water Specialists, LLC
Complaint- Page 3



Printed on Recycled Paper

The most knowledgeable people regarding this matter are Olive Hofstader, Environmental Protection Specialist, who can be reached at (800) 227-8917 extension 6467 or Marc Weiner, Enforcement Attorney, who can be reached at (800) 227-8917 extension 6913.

Sincerely,

SIGNED

Carol Rushin

Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Enclosure

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

IN THE MATTER OF)	
)	
Frontier Correctional Systems, Inc.)	COMPLAINT AND NOTICE OF OPPORTUNITY FOR HEARING
Cheyenne, Wyoming)	
)	
Certified Water Specialists, LLC)	
Cheyenne, Wyoming)	
)	
Respondents)	
)	Docket No. SDWA-08-2004-0048
)	
Proceedings under section 1414(g))	
of the Safe Drinking Water Act,)	
42 U.S.C. § 300g-3(g))	
)	

COMPLAINT

This civil administrative Complaint and Notice of Opportunity for Hearing ("Complaint") is issued under the authority vested in the Administrator of the United States Environmental Protection Agency ("EPA") by section 1414(g)(3) of the Safe Drinking Water Act, as amended ("SDWA"), 42 U.S.C. § 300g-3(g)(3). Section 1414(g)(3) of the SDWA authorizes the Administrator of the EPA to assess an administrative civil penalty, not exceeding \$25,000, against any person who violates, or fails or refuses to comply with, an Order under section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1).

Complainant in this action is the Assistant Regional Administrator, Office of Enforcement, Compliance and Environmental Justice, EPA Region 8, who has been duly authorized to institute this action ("Complainant"). This proceeding is subject to EPA's "Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and In the Matter of Frontier Correctional Systems, Inc. and Certified Water Specialists, LLC
Complaint- Page 5

the Revocation or Suspension of Permits,” 40 C.F.R. part 22. (“Consolidated Rules of Practice”)(Complainant’s Exhibit 1).

GENERAL ALLEGATIONS

1. Frontier Correctional Systems, Inc. (“Respondent”) is a corporation under the laws of the state of Wyoming as of March 1, 1999 and Certified Water Specialists, LLC (“Respondent”) is a limited liability company organized under the laws of the state of Wyoming as of September 17, 1999 and therefore “persons” within the meaning of section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 141.2.

2. Respondents own and/or operate a system, the Frontier Correctional Systems Water System (the "System"), located in Laramie County, Wyoming, for the provision to the public of piped water for human consumption.

3. The System regularly serves at least 25 year-round residents and is therefore a "public water system" (“PWS”) within the meaning of section 1401(4) of the SDWA, 42 U.S.C. § 300f(-4), and a "community water system" within the meaning of 40 C.F.R. § 141.2.

4. Respondents own and/or operate a public water system and are therefore "suppliers of water" within the meaning of section 1401(5) of the SDWA, 42 U.S.C. § 300f(5), and 40 C.F.R. § 141.2. Respondents are therefore subject to the requirements of Part B of the SDWA, 42 U.S.C. § 300g, et seq., and its implementing regulations, the National Primary Drinking Water Regulations ("NPDWRs"), set forth at 40 C.F.R. part 141.

5. According to an April 2, 2001 sanitary survey conducted by an agent for EPA, Respondents own and/or operate a system that is supplied by two wells, and serves approximately 100 persons per day through 1 service connection that is operational all year.

6. On September 25, 2002, EPA issued an Administrative Order (Docket No. SDWA-08-2002-43) (hereinafter, “the Order” or “AO”) to the Respondents pursuant to section 1414(g)(1) of the SDWA, 42 U.S.C. § 300g-3(g)(1), citing violations of the NPDWRs. A copy of the AO is attached to this Complaint (Complainant’s Exhibit 2).

7. The AO required the Respondents, among other things, to achieve compliance with the NPDWRs by performing monthly bacteriological monitoring, complying with the maximum contaminant level (“MCL”) for total coliform, activating continuous disinfection within 10 days of a total coliform MCL exceedance, and notifying the public and EPA of Respondents’ failure to comply with the NPDWRs.

8. On January 12, 2004, EPA sent Respondents a “Violation of Administrative Order” letter citing Respondents’ failure to comply with the AO, the SDWA, and the NPDWRs. (Complainant’s Exhibit 3).

9. The AO is an "applicable requirement" within the meaning of section 1414(g) of the SDWA, 42 U.S.C. § 300g-3(g).

10. In accordance with section 1414(g)(3) of the SDWA, 42 U.S.C. section 300g-3(g)(3), any person who violates, or fails or refuses to comply with, an Administrative Order shall be liable to the United States for a civil penalty of not more than \$25,000 per day of violation.

SPECIFIC ALLEGATIONS

Count I

Failure to Monitor for Total Coliform Bacteria

11. 40 C.F.R. § 141.21 requires community public water systems to monitor their water at least once per month to determine compliance with the maximum contaminant level (“MCL”) for total coliform bacteria as stated in 40 C.F.R. § 141.63.

12. Page 8, paragraph 5, of the Order section of the AO required Respondents to comply with the requirement of 40 C.F.R. § 141.21 to perform monthly bacteriological monitoring; comply with the MCL for total coliform bacteria as stated in 40 C.F.R. § 141.63.; report the analytical results to EPA within the first 10 days of the end of the monitoring period, as required by 40 C.F.R. § 141.31(a); and activate continuous disinfection within 10 days of any total coliform MCL violation which occurs within twelve months of the effective date of the AO.

13. Since issuance of AO, Respondents failed to monitor the water for contamination by total coliform bacteria for the month of February 2004.

14. Respondents' failure to monitor the water for contamination by total coliform bacteria for the February 2004 monitoring period constitute violations of 40 C.F.R. § 141.21 and the AO.

II. Total Coliform MCL Exceedance

15. Paragraph 11 and 12 above are incorporated by reference into this section.

16. Since the issuance of the AO, Respondents failed to comply with the total coliform MCL for two months in September and October 2003.

17. Respondents' failure to comply with the total coliform MCL in September and October 2003 constitute violations of 40. C.F.R. § 141.63 and the AO.

III. Failure to Activate Disinfection

18. Paragraph 12 is incorporated by reference into this section.

19. Respondents' system first exceeded the total coliform MCL after issuance of the AO on September 8, 2003.

20. Therefore, the AO required Respondents to activate continuous disinfection no later than September 18, 2003.

21. Respondents did not activate continuous disinfection until November 15, 2003 and thereby failed to comply with the AO for approximately two months from September 18, 2003 until November 15, 2003.

22. Respondents' failure to activate continuous disinfection from September 18, 2003 until November 15, 2003 constitute violations of the AO.

IV. Failure to Notify the Public of Monitoring Violations

23. 40 C.F.R. § 141.201 requires owners and/or operators of public water systems to notify the public of any violation of the NPDWRs.

24. On page 6, paragraph VIII.2., of the Findings of Violation section of the AO, Complainant alleged that the Respondents failed to provide public notice of the noncompliance alleged in paragraphs I through IV of the AO.

25. Page 9, paragraph 7, of the Order section of the AO required Respondents to provide a notice to the public of the violations alleged in the Order no later than 30 days from the effective date of the AO, and submit a copy of the public notice to EPA within 10 days of completion of the public notice, as required by 40 C.F.R. § 141.31(d).

26. Respondents failed to provide notice to the public of the NPDWR violations identified in the AO beginning on October 25, 2002 through the date of the issuance of this Complaint, in violation of 40 C.F.R. § 141.201 and the AO.

27. Furthermore, Respondent failed to submit a copy of the public notice for the violations listed in the AO, to EPA within ten (10) days of completion of the public notice, in violation of 40 C.F.R. § 141.31(d) and the AO.

**Count V.
Failure to Report Violations to EPA**

28. 40 C.F.R. § 141.21(g)(1) requires Respondents to report any total coliform MCL violation to EPA no later than the end of the next business day.

29. On page 5 paragraph VII.2., of the Findings of Violation section of the AO, Complainant alleged that the Respondents failed to report to EPA exceedances of the total coliform MCL alleged in paragraph III of the AO.

30. Page 10, paragraph 8, of the Order section of the AO required Respondents to report any failure to comply with the total coliform MCL to EPA no later than the end of the next business day.

31. Respondents failed to report their failure to comply with the total coliform MCL in September and October 2003 to EPA no later than the next business day, in violation of 40 C.F.R. § 141.21(g)(1) and AO.

PROPOSED ADMINISTRATIVE CIVIL PENALTY

Section 1414(g)(3) of the SDWA, 42 U.S.C. § 300g-3(g)(3), authorizes the Administrator to assess an administrative civil penalty of up to \$25,000 for violation of an Administrative Order issued under section 1414(g)(1) of the SDWA. The proposed penalty has been determined in accordance with section 1414 of the SDWA, 42 U.S.C. § 300g-3. For purposes of determining the amount of any penalty to be assessed to calculate a rational and consistent penalty, EPA has taken into account the seriousness of the violation, the population at risk, and other appropriate

factors, including Respondents' degree of willfulness and/or negligence, history of non-compliance, if any, and ability to pay, as known to Complainant at this time. Based on the above factors, EPA proposes to assess an administrative civil penalty of One Thousand Five Hundred Dollars (\$1,500.00) against Respondents for violation of the NPDWRs and the Administrative Order.

OPPORTUNITY TO REQUEST A HEARING

As provided in section 1414(g)(3)(B) of the SDWA, 42 U.S.C. § 300g-3(g)(3)(B), Respondents have the right to request a public hearing on any material fact alleged in this Complaint or on the appropriateness of the proposed penalty or to assert that he is entitled to judgment as a matter of law.

If you wish to request a hearing, you must file a written Answer in accordance with 40 C.F.R. §§ 22.15 and 22.42 within thirty (30) calendar days after this Complaint is served. If this Complaint is served by mail, you have an additional five (5) calendar days, pursuant to 40 C.F.R. § 22.07(c).

If you request a hearing in your Answer, the procedures provided in 40 C.F.R. part 22, subpart I, will apply to the proceedings, and the Regional Judicial Officer will preside. HOWEVER, you have the right under the SDWA to elect a hearing on the record in accordance with section 554 of the Administrative Procedure Act, 5 U.S.C. §§ 551, et seq. ("APA"). To exercise this right, you must include in your Answer a specific request for a hearing on the record in accordance with 5 U.S.C. § 554. Upon such request, the Regional Hearing Clerk will recaption the pleadings and documents in the record as necessary. (See 40 C.F.R. § 22.42) Pursuant to such a request, subpart I will not apply to the proceedings and an Administrative Law Judge from Washington, D.C., will preside.

Your Answer and one copy must be in writing and must be sent to the attorney listed below and the EPA Regional Hearing Clerk at the address below:

Tina Artemis
Regional Hearing Clerk (8RC)
U.S. Environmental Protection Agency
999 18th Street, Suite 300
Denver, Colorado 80202-2466

FAILURE TO FILE AN ANSWER

To avoid entry of a Default Order against you pursuant to 40 C.F.R. § 22.17 for the full amount of the penalty proposed in this Complaint, Respondents must file a written Answer with the Regional Hearing Clerk at the address above within thirty (30) days of receipt of this Complaint. Respondents' Answer should clearly and directly admit, deny, or explain each of the factual allegations contained in this Complaint with regard to which the Respondents have any knowledge. Respondents' Answer should state (1) the circumstances or arguments which are alleged to constitute grounds of defense, (2) a concise statement of the facts which Respondents intend to place at issue in the hearing, and (3) whether a hearing is requested. Failure to admit, deny, or explain any material factual allegation contained in this Complaint shall constitute an admission of the allegation. Upon request, the Administrator will hold a hearing for the assessment of an administrative civil penalty in accordance with the provisions of 40 C.F.R. part 22.

SETTLEMENT CONFERENCE

EPA encourages the exploration of settlement possibilities through an informal settlement conference. Please note that a request for, scheduling of, or participation, in a settlement conference does not extend the period for filing an Answer and request for hearing as set out above. The settlement process, however, may be pursued simultaneously with the administrative litigation procedures found in 40 C.F.R. part 22. If a settlement can be reached, its terms shall be expressed in a written consent agreement, signed by the parties and incorporated into a final order signed by the Regional Judicial Officer.

A request for a settlement conference, or any questions that you may have regarding this Complaint, should be directed to the attorney listed below.

Dated this 14TH day of September, 2004.

UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY, REGION 8

Complainant.

SIGNED

Carol Rushin
Assistant Regional Administrator
Office of Enforcement, Compliance
and Environmental Justice

Marc D. Weiner
U.S. EPA Region 8 (8ENF-L)
999 18th Street, Suite 300
Denver, Colorado 80202-2466
Tel. 303-312-6913
Fax. 303-312-6953

**THIS DOCUMENT WAS FILED IN THE REGIONAL HEARING CLERK'S OFFICE ON
SEPTEMBER 16, 2004.**